

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:24-cv-00565-FL**

ABC PHONES OF NORTH CAROLINA,
INC. d/b/a VICTRA,

Plaintiff,

v.

STRAX AMERICAS, INC. and
MATTER BRANDS LLC,

Defendants.

**PLAINTIFF'S CONSENT MOTION
FOR EXTENSION OF TIME**

Plaintiff ABC Phones of North Carolina, Inc. d/b/a Victra ("Victra"), by and through its undersigned counsel, and pursuant to Rule 6 of the Federal Rules of Civil Procedure and Local Civil Rule 6.1 asks this Court for an extension of time within which to submit a response in opposition to Defendant Matter Brands LLC's ("Matter Brands") Motion to Dismiss. (ECF No. 28). In support of this Motion, and with Matter Brands' consent, Victra states as follows:

1. Victra commenced this action by filing a Complaint on October 2, 2024.
2. Matter Brands, with the consent of Victra, moved on October 28, 2024 for an extension in which to answer, plead, or otherwise respond to the Complaint until and through December 2, 2024. (ECF No. 10). The Court granted the October 28, 2024 motion on October 29, 2024.
3. Matter Brands, with the consent of Victra, moved on November 22, 2024 for an extension in which to answer, plead, or otherwise respond to the Complaint

until and through December 12, 2024. (ECF No. 14). The Court granted the November 22, 2024 motion on December 3, 2024.

4. Matter Brands, with the consent of Victra, moved on December 9, 2024 for an extension in which to answer, plead, or otherwise respond to the Complaint until and through December 23, 2024. (ECF No. 19). The Court granted the December 9, 2024 motion on December 11, 2024.

5. On December 20, 2024, Matter Brands filed its Motion to Dismiss for Lack of Jurisdiction and Failure to State a Claim (the “Motion to Dismiss”). (ECF No. 28).

6. The deadline in which Victra must respond to the Motion to Dismiss is currently February 10, 2025. That deadline has not yet passed.

7. Good cause exists for the extension sought. Victra has filed a Motion for Leave to Amend its Complaint (the “Motion for Leave”). When the Motion for Leave is granted, the Amended Complaint will render Matter Brands’ Motion to Dismiss moot and alleviate Victra’s obligation to respond thereto. The interests of judicial economy would be promoted by deferring the deadline for Victra’s response to Matter Brands’ soon-to-be-moot Motion to Dismiss.

8. As required by Local Rule 6.1, on February 5, 2025, counsel for Victra communicated with counsel for Matter Brands concerning the requested extension. Matter Brands has consented to the extension sought herein.

9. This Motion is made in good faith and not for the purpose of delaying the proceedings within this action.

WHEREFORE, Victra respectfully requests that its Consent Motion for Extension of Time be granted and that Victra be granted an extension to submit a response in opposition to Matter Brands' Motion to Dismiss through and including fifteen (15) days following an Order on Victra's Motion for Leave to Amend its Complaint.

A proposed Order is submitted with this Motion.

This the 6th day of February, 2025.

K&L GATES LLP

By: /s/Daniel D. McClurg

John R. Gardner
N.C. State Bar No. 32683
301 Hillsborough St., Suite 1200
Raleigh, NC 27603
Tel: (919) 743-7325
Fax: (919) 743-7358
Email: John.Gardner@klgates.com

Daniel D. McClurg
N.C. Bar Number 53768
300 South Tryon Street, Suite 1000
Charlotte, NC 28202
Phone: (704) 331-7444
Fax: (704) 331-7598
Email: daniel.mcclurg@klgates.com

***Attorneys for Plaintiff ABC Phones of North
Carolina, Inc. d/b/a Victra***

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing served this day by filing electronically via the CM/ECF system, which will send notification of such filing to the following participants:

Michelle A. Liguori
michelle.liguori@elliswinters.com
Suraj Vege
Suraj.Vege@elliswinters.com
ELLIS & WINTERS LLP
Post Office Box 33550
Raleigh, North Carolina 27636
Counsel for Defendant Strax Americas, Inc.

Michael D. DeFrank
mdefrank@wyrick.com
Mary Kate Gladstone
mgladstone@wyrick.com
4101 Lake Boone Trail, Suite 300
Raleigh, North Carolina 27607
Attorneys for Defendant Matter Brands, LLC

This the 6th day of February, 2025.

/s/ Daniel D. McClurg

Daniel D. McClurg